

six months from execution of the Agreement.

9. *VI.B. Individual Participation* has been changed to revise paragraph (3) regarding refusal of an Individual by an Owner. If the refusal is the result of unlawful discrimination, the Individual may request the assistance of the PHA in resolving the issue and may also file a complaint with HUD. If the PHA cannot resolve the complaint promptly, the PHA should advise the Individual that he or she may file a complaint with HUD. The PHA is no longer required to refer the

Individual to the next available unit in the program.

10. *VII. Definitions* has been changed to add to the definition of "supportive services" information on obtaining furniture or clothing.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public

inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC, 20410.

Information collection requirements. The collection of information requirements contained in this Notice have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0367. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN

[Notice of fund availability—Section 8 moderate rehabilitation program for single room occupancy dwellings for homeless individuals]

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per response	Total hours
Section 8 moderate rehabilitation program for single room occupancy dwellings for homeless individuals (2502-0367).	24 CFR Part 882.....	100	1	100	25	2,500

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this Notice do not have federalism implications and, thus, are not subject to review under the Order because the Notice merely provides, at statutory direction, housing for homeless individuals through a housing assistance mechanism that is already established between HUD, the PHA, and the Owner under the Section 8 Housing Assistance Payments Program.

Executive Order 12606, the Family. The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this Notice does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order, because its aim is to provide single room housing for homeless individuals.

The Catalog of Federal Domestic Assistance Program number is 14.156, Lower Income Housing Assistance Program.

Authority: Secs. 401 and 441, Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77, approved July 22, 1987; sec. 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Pub. L. 100-628, approved November 7, 1988; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: January 3, 1989.

James E. Schoenberger,
General Deputy Assistant Secretary for
Housing—Federal Housing Commissioner.
[FR Doc. 89-290 Filed 1-8-89; 8:45 am]

BILLING CODE 4210-27-M

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Assistant Secretary for
Housing-Federal Housing
Commissioner

24 CFR Part 891

[Docket No. R-89-1432; FR-2539]

**Section 8 Moderate Rehabilitation
Program for Single Room Occupancy
Dwellings for Homeless Individuals;
Cross Reference**

AGENCY: Office of the Assistant
Secretary for Housing—Federal Housing
Commissioner, HUD.

ACTION: Proposed rule; cross-reference.

SUMMARY: In a Notice published elsewhere in this Part IV of the Federal Register, HUD is announcing the availability of \$45 million for the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals. These funds were appropriated by the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Pub. L. 100-404, approved August 19, 1988). The Notice also implements amendments contained in the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7,

1988). The Notice of Fund Availability will be the basis for development of a final rule for this program, to be added to Chapter VIII of Title 24 of the Code of Federal Regulations, and therefore invites public comment on the Notice within 60 days of today's Federal Register publication.

DATES: *Comment due date:* March 10, 1989.

Date: January 5, 1989.

James E. Schoenberger,
General Deputy Assistant Secretary for
Housing—Deputy Federal Housing
Commissioner.

[FR Doc. 89-416 Filed 1-6-89; 8:45 am]

BILLING CODE 4210-27-M

Federal Register

Monday
January 9, 1989

Part V

Department of Energy

10 CFR Part 1018

Referral of Debts to the Internal
Revenue Service for Tax Refund Offset;
Interim Rule With Request for Comments

DEPARTMENT OF ENERGY

10 CFR Part 1018

Referral of Debts to the Internal Revenue Service for Tax Refund Offset

AGENCY: Department of Energy (DOE).

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Energy, as a participant in the Federal Tax Refund Offset Program, is issuing temporary regulations to govern the referral of delinquent debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing money to DOE. These regulations are authorized by the Deficit Reduction Act of 1984 (31 U.S.C. 3720A) (the Act). Section 2653 of the Act allows DOE to collect debts by means of offset from the income tax refunds of persons owing money to DOE provided certain conditions are met. This rule amends Chapter X of Title 10 of the Code of Federal Regulations (CFR) by adding a new Part 1018. Part 1018 establishes procedures to be followed by DOE in requesting the IRS to offset tax refunds due to taxpayers who have past-due legally enforceable debt obligations to the DOE.

DATES: Interim rule is effective on January 9, 1989. Written comments must be received on or before February 8, 1989.

ADDRESS: Send comments to: Elizabeth E. Smedley, Controller, Department of Energy, (Mail Stop MA-3, Room 4A-139), 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Carl W. Guidice, Office of the Controller, 202-586-4860 (FTS 896-4860).

SUPPLEMENTARY INFORMATION: This interim rule provides procedures for DOE to refer past-due legally enforceable debts to the IRS for offset against the income tax refunds of persons owing debts to the DOE. This rule is authorized by section 2653 of the Deficit Reduction Act of 1984. The purpose of the Act is to improve the ability of the government to collect money owed it while adding certain notice requirements and other protections applicable to the government's relationship to the debtor.

This rule implements section 2653 of the Act which directs any Federal agency that is owed a past-due legally enforceable debt by a named person to notify the Secretary of the Treasury in accordance with regulations issued by the Department of the Treasury at 26

CFR 301.6402-6T. Before a Federal agency may give such notice, however, it must first: (1) Notify the debtor that the agency proposes to refer the debt for a tax refund deduction; (2) give the debtor 60 days from the date of the notification to present evidence that all or part of the debt is not past-due or legally enforceable; (3) consider any evidence presented by the debtor and determine whether any amount of such debt is past-due and legally enforceable; and (4) satisfy such other conditions as the Secretary of the Treasury may prescribe to ensure that the agency's determination is valid and that the agency has made reasonable efforts to obtain payment of the debt. This program for tax refund offsets extends through January 10, 1994.

This rule, in accordance with IRS regulations, provides that before DOE refers a debt to Treasury (through IRS), a notice of intention (Notice of Intent) will be sent to the debtor. This Notice of Intent will inform the debtor of the amount of the debt and that unless the debt is repaid within 60 days from the date of the DOE's Notice of Intent, DOE intends to collect the debt by requesting the IRS to offset any tax refund payable to the debtor. In addition, the Notice of Intent will state that the debtor has a right, during such period, to present evidence that all or part of the debt is not past-due or legally enforceable. This rule also establishes procedures for the debtor who intends to present such evidence.

Executive Order 12291

This rule has been reviewed in accordance with Executive Order 12291. The rule is not classified as a major rule because it does not have the gross effects on the economy, States, or the public which are required to classify a rule as "major" and to warrant preparation of a formal regulatory impact analysis.

Executive Order 12612

Executive Order 12612 requires that regulations or rules be reviewed for direct effects on States, on the relationship between the national government and the States, or in the distribution of power among various levels of government. If there are sufficient substantial direct effects, then E.O. 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating or implementing a regulation or rule.

Today's regulation applies to private persons and does not affect any traditional State function. There are therefore no substantial direct effects

requiring evaluation or assessment under E.O. 12612.

Regulatory Flexibility Act Certification

This rule does not have a significant impact on a substantial number of small entities (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

No additional information and recordkeeping requirements are imposed by this rule.

National Environmental Policy Act

Promulgation of this rule does not represent a major Federal action with significant environmental impact. Therefore, preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) is not required.

Public Comments

Pursuant to the Agreement between the IRS, the Financial Management Service, and the DOE regarding the DOE's participation in the Tax Refund Offset Program for 1989, the DOE is required to have promulgated regulations regarding referral of debts to IRS for tax refund offset prior to DOE's participation in the program. DOE is issuing interim final regulations to take effect today in order to fulfill that requirement. Although DOE will respond to written comments on today's notice, DOE is neither holding a hearing, nor providing an opportunity for prior comments, nor delaying the effective date for 30 days because these regulations are mostly procedural and because there are no significant issues of law or fact nor relevant substantial impacts on the Nation or large numbers of persons of which DOE could take account consistent with law. Moreover, issuance of immediately effective interim final regulations does not prejudice the due process rights of debtors and is essential in order to participate in the 1989 program given that the legislative authority was not extended until October 1988. Written comments are solicited for 30 days after publication of this document. A final document discussing any comments received and revisions required will be published in the Federal Register as soon as possible.

Other Matters

These procedures are being codified in the Department's regulations for general information and are pursuant to statutory requirements regarding publication of rules of procedure in the

Federal Register, 5 U.S.C. 552(a)(1)(C). However, the procedures described in the rule will be utilized before it becomes effective with respect to persons who are provided actual notice of the procedures through the notices required under the procedures. See 5 U.S.C. 552(a)(1).

List of Subjects in 10 CFR Part 1018

Administrative practice and procedure, Claims.

In consideration of the foregoing, the Department of Energy hereby proposes to amend Chapter X of Title 10 of the Code of Federal Regulations by adding a new Part 1018 as set forth below.

Issued in Washington, DC, on January 5, 1989.

Lawrence F. Davenport,

Assistant Secretary, Management and Administration.

Part 1018 is added to 10 CFR Chapter X to read as follows:

PART 1018—REFERRAL OF DEBTS TO IRS FOR TAX REFUND OFFSET

Sec.

- 1018.1 Purpose.
- 1018.2 Applicability and scope.
- 1018.3 Administrative charges.
- 1018.4 Notice requirement before offset.
- 1018.5 Review within the Department.
- 1018.6 Departmental determination.
- 1018.7 Stay of offset.

Authority: 31 U.S.C. 3720A; Pub. L. 98-369; 98 Stat. 1153.

§ 1018.1 Purpose.

This part establishes procedures for the Department of Energy (DOE) to refer past-due debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing debts to DOE. It specifies the agency procedures and the rights of the debtor applicable to claims for the payment of debts owed to DOE.

§ 1018.2 Applicability and scope.

(a) These regulations implement 31 U.S.C. 3720A which authorizes the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States.

(b) For purposes of this section, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the United States and:

(1) Except in the case of a judgment debt, has been delinquent for at least three months but has not been delinquent for more than ten years at the time the offset is made;

(2) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(3) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Department against amounts payable to or on behalf of the debtor by or on behalf of the Department;

(4) With respect to which DOE has given the taxpayer at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered evidence presented by such taxpayer, and has determined that an amount of such debt is past-due and legally enforceable;

(5) Has been disclosed by DOE to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100.00;

(6) With respect to which DOE has notified or has made a reasonable attempt to notify the taxpayer that the debt is past-due and, unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(7) Is at least \$25.00;

(8) All other requirements of 31 U.S.C. 3720A and the Department of the Treasury regulations codified at 26 CFR 301.6402-6T relating to the eligibility of a debt for tax return offset have been satisfied.

§ 1018.3 Administrative charges.

In accordance with 10 CFR Part 1015, all administrative charges incurred in connection with the referral of the debts to the IRS shall be assessed on the debt and thus increase the amount of the offset.

§ 1018.4 Notice requirement before offset.

A request for reduction of an IRS tax refund will be made only after the DOE makes a determination that an amount is owed and past-due and provides the debtor with 60 days written notice. The DOE's notice of intention to collect by IRS tax refund offset (Notice of Intent) will state:

(a) The amount of the debt;

(b) That unless the debt is repaid within 60 days from the date of the DOE's Notice of Intent, DOE intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as refunds of Federal taxes paid by an amount equal to the amount of the debt and all accumulated interest and other charges;

(c) That the debtor has a right to present evidence that all or part of the

debt is not past-due or legally enforceable; and

(d) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

§ 1018.5 Review within the Department.

(a) *Notification by Debtor.* A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for a review of the evidence to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable.

(3) Include in the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the remainder of the 60-day period.

(b) *Submission of evidence.* The debtor may submit evidence showing that all or part of the debt is not past-due or not legally enforceable along with the notification required by paragraph (a) of this section. Failure to submit the notification and evidence within 60 days will result in an automatic referral of the debt to the IRS without further action by DOE.

(c) *Review of the evidence.* DOE will consider all available evidence related to the debt. Within 30 days, if feasible, DOE will notify the debtor whether DOE has sustained, amended, or cancelled its determination that the debt is past-due and legally enforceable.

§ 1018.6 Departmental determination.

(a) Following review of the evidence, DOE will issue a written decision which will include the supporting rationale for the decision.

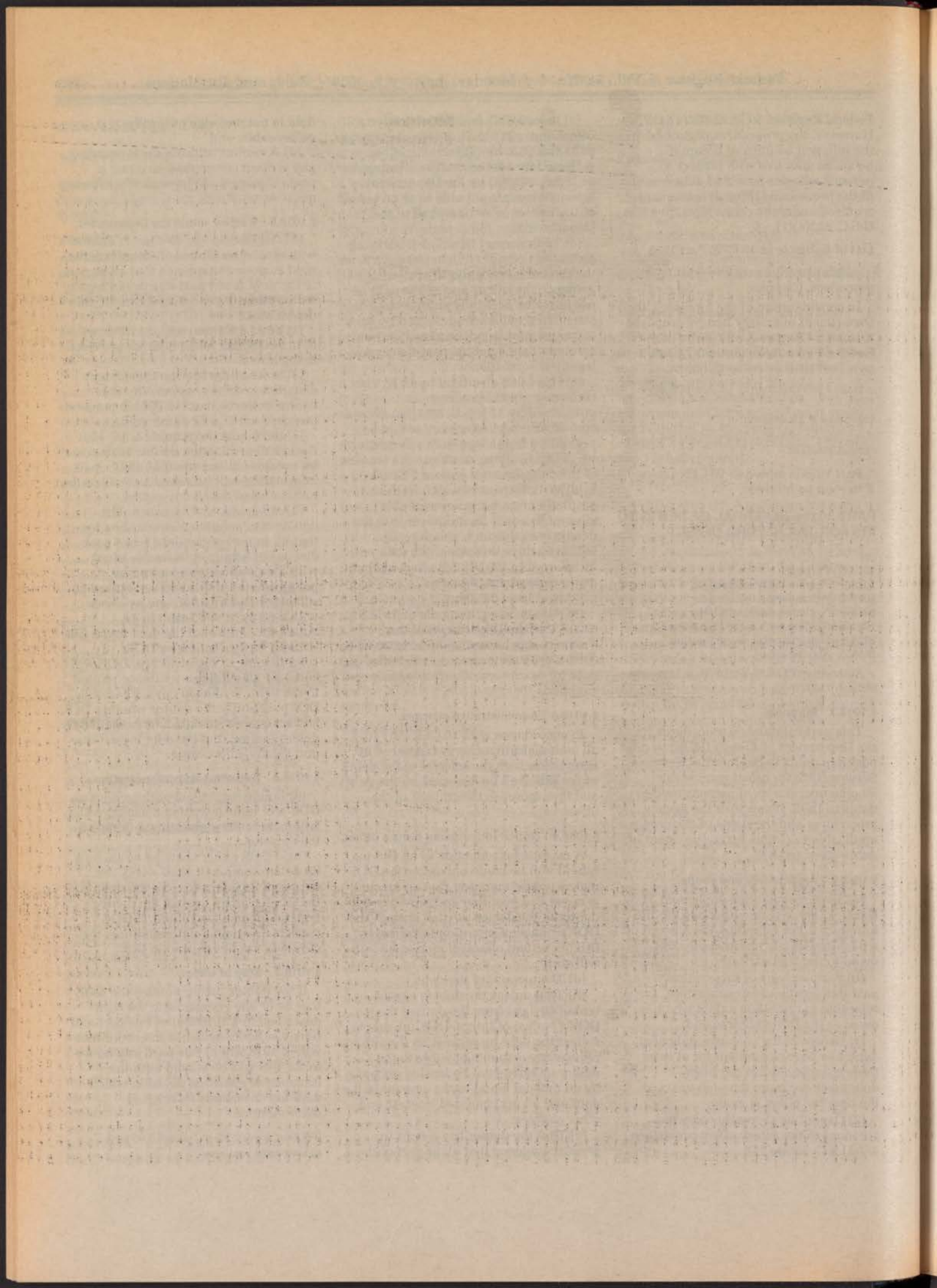
(b) If DOE either sustains or amends its determination, it shall notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund. If DOE cancels its original determination, the debt will not be referred to IRS.

§ 1018.7 Stay of offset.

If the debtor timely notifies the DOE that he or she is exercising the right described in § 1018.5(a) of this part and timely submits evidence in accordance with § 1018.5(b) of this part, any notice to the IRS will be stayed until the issuance of a written decision which sustains or amends its original determination.

[FR Doc. 89-502 Filed 1-5-89; 5:00 pm]

BILLING CODE 8450-01-M



Fast Facts

Monday
January 9, 1989

Part VI

The President

Proclamation 5928—Territorial Sea of the
United States of America

Executive Order 12661—Implementing the
Omnibus Trade and Competitiveness Act
of 1988 and Related International Trade
Matters

Executive Order 12662—Implementing the
United States-Canada Free-Trade
Implementation Act

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Presidential Documents

Title 3—

Proclamation 5928 of December 27, 1988

The President

Territorial Sea of the United States of America

By the President of the United States of America

A Proclamation

International law recognizes that coastal nations may exercise sovereignty and jurisdiction over their territorial seas.

The territorial sea of the United States is a maritime zone extending beyond the land territory and internal waters of the United States over which the United States exercises sovereignty and jurisdiction, a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil.

Extension of the territorial sea by the United States to the limits permitted by international law will advance the national security and other significant interests of the United States.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution of the United States of America, and in accordance with international law, do hereby proclaim the extension of the territorial sea of the United States of America, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

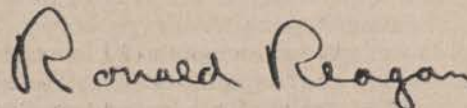
The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

In accordance with international law, as reflected in the applicable provisions of the 1982 United Nations Convention on the Law of the Sea, within the territorial sea of the United States, the ships of all countries enjoy the right of innocent passage and the ships and aircraft of all countries enjoy the right of transit passage through international straits.

Nothing in this Proclamation:

- (a) extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom; or
- (b) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.



Presidential Documents

THE PRESIDENT OF THE UNITED STATES OF AMERICA

DECLARATION OF THE UNITED STATES OF AMERICA

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the United States at Washington, D.C., this 1st day of January, 1961.

J. F. Kennedy

International law provides that the United States is bound by its obligations under the Charter of the United Nations.

The United States is a member of the United Nations and is bound by its obligations under the Charter of the United Nations.

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John F. Kennedy

Presidential Documents

Executive Order 12661 of December 27, 1988

Implementing the Omnibus Trade and Competitiveness Act of 1988 and Related International Trade Matters

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418, 102 Stat. 1107) ("Omnibus Trade Act"), the Tariff Act of 1930 (Chapter 497, 46 Stat. 590, June 17, 1930), as amended ("Tariff Act"), the National Defense Authorization Act, Fiscal Year 1989 (P.L. 100-456, 102 Stat. 1918) ("Defense Authorization Act"), section 301 of Title 3 of the United States Code, and, in general, to ensure that the international trade policy of the United States shall be conducted and administered in a way that achieves the economic, foreign policy, and national security objectives of the United States and in a coordinated manner under the direction of the President, it is hereby ordered as follows:

PART I—TRADE, CUSTOMS, AND TARIFF LAWS

Section 1-101. Accession of State Trading Regimes to the General Agreement on Tariffs and Trade. The functions vested in the President by sections 1106(a), (b) and (d) of the Omnibus Trade Act, regarding the accession of state trading regimes to the General Agreement on Tariffs and Trade, are delegated to the United States Trade Representative.

Sec. 1-201. Wine Barriers. The functions vested in the President by section 1125 of the Omnibus Trade Act, regarding the updated report on barriers to wine trade, are delegated to the United States Trade Representative.

Sec. 1-301. Steel Imports. The functions vested in the President by section 805(d)(1) and (2) of the Trade and Tariff Act of 1984 (19 U.S.C. 2253, note), as amended by section 1322 of the Omnibus Trade Act, are delegated to the United States Trade Representative.

Sec. 1-401. Telecommunications Trade. The functions vested in the President by sections 1375 and 1376(e) of the Omnibus Trade Act, regarding certain telecommunications negotiations as may be ordered by the President and reports thereon to Congressional Committees, are delegated to the United States Trade Representative.

Sec. 1-501. Uniform Fee on Imports. The functions vested in the President by section 1428 of the Omnibus Trade Act, regarding negotiations to obtain authority under the General Agreement on Tariffs and Trade to impose a small uniform fee on imports, are delegated to the United States Trade Representative.

PART II—EXPORT ENHANCEMENT

Sec. 2-101. Countertrade and Barter.

(1) *Establishment.* There is established an Interagency Group on Countertrade, which shall be composed of the Secretaries of Commerce, State, Defense, Treasury, Labor, Agriculture, and Energy, the Attorney General, the Administrator of the Agency for International Development, the Director of the Federal Emergency Management Agency, the United States Trade Representative and the Director of the Office of Management and Budget, or their respective representatives. The Secretary of Commerce or his representative shall be the Chairman of the interagency group.

(2) *Functions.* The interagency group shall carry out the functions and duties set out in section 2205(a) of the Omnibus Trade Act.

Sec. 2-201. Sanctions Against Toshiba and Kongsberg.

(1) *Procurement Sanctions.* Pursuant to section 2443 of the Omnibus Trade Act and subject to the exceptions referred to in paragraph (3), departments, agencies and instrumentalities of the United States Government shall not for the three-year period beginning on the date this Order takes effect, contract with or procure products and services from Toshiba Machine Company, Kongsberg Trading Company, Toshiba Corporation or Kongsberg Vaapenfabrikk. The head of each department, agency or instrumentality is hereby directed and authorized to implement this procurement sanction in accordance with paragraph (3).

(2) *Import Sanctions.* Pursuant to section 2443 of the Omnibus Trade Act and subject to the exceptions referred to in paragraph (3), importation into the United States, its territories and possessions, of products produced by Toshiba Machine Company or Kongsberg Trading Company is prohibited for three years from the effective date of this Order. The Secretary of the Treasury is hereby directed and authorized to implement this import sanction in accordance with paragraph (3).

(3) *Exceptions.* Authority to make determinations as to exceptions to sanctions and to implement exceptions by regulation or otherwise is delegated (i) to the Secretary of Defense with respect to determinations under section 2443(c)(1) regarding the procurement of defense articles or defense services, (ii) to the Secretary of the Treasury with respect to exceptions under section 2443(c)(2) regarding importation prohibited by section 2443(a)(2), and (iii) to the head of each Federal department, agency or instrumentality with respect to exceptions under section 2443(c)(2) affecting their respective contracting and procurement. All regulations implementing these exceptions provisions shall be consistent with any guidelines provided by the Office of Federal Procurement Policy, Office of Management and Budget.

(4) *Annual Report.* The annual report required by section 2445, concerning estimated increases in defense expenditures arising from illegal technology transfers, shall be prepared by the Secretary of Defense, in consultation with the Secretaries of State and Commerce, for submission to the Congress by the President.

PART III—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Sec. 3-101. Foreign Corrupt Practices Act Amendments.

The functions conferred upon the President by section 5003(d)(1) ("International Agreement") of the Omnibus Trade Act are delegated to the Secretary of State, who in performing such functions shall act in consultation with the Attorney General, the United States Trade Representative, the Chairman of the Securities and Exchange Commission, the Secretary of Commerce, the Secretary of the Treasury and the Director of the Office of Management and Budget.

Sec. 3-201. Authority to Review Certain Mergers, Acquisitions, and Takeovers.

(1) Executive Order No. 11858, as amended, regarding the Committee on Foreign Investment in the United States (the "Committee") is further amended as follows:

(A) By adding new Sections 7 and 8 as follows:

"Sec. 7. (1) *Investigations.* (a) The Committee is designated to receive notices and other information, to determine whether investigations should be undertaken, and to make investigations, pursuant to Section 721(a) of the Defense Production Act. (b) If the Committee determines that an investigation should be undertaken, such investigation shall commence no later than 30 days after

receipt by the Committee of written notification of the proposed or pending merger, acquisition, or takeover. Such investigation shall be completed no later than 45 days after such determination. (c) If one or more Committee members differ with a Committee decision not to undertake an investigation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for his decision within 25 days after receipt by the Committee of written notification of the proposed or pending merger, acquisition, or takeover. (d) A unanimous decision by the Committee not to undertake an investigation with regard to a notice shall conclude action under this section on such notice. The Chairman shall advise the President of said decision.

"(2) *Report to the President.* Upon completion or termination of any investigation, the Committee shall report to the President and present a recommendation. Any such report shall include information relevant to subparagraphs (1) and (2) of Section 721(d) of the Defense Production Act. If the Committee is unable to reach a unanimous recommendation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for his decision.

"**Sec. 8.** The Chairman of the Committee, in consultation with other members of the Committee, is hereby delegated the authority to issue regulations to implement Section 721 of the Defense Production Act."

(B) By deleting, from the second sentence in Section 1(a), the text beginning with "a representative" and ending with "by each of".

(C) By deleting, from the third sentence in Section 1(a), the phrase "representative of the".

(D) By deleting "and" at the end of subparagraph (3) of Section 1(b), by substituting "; and" for the period at the end of subparagraph (4) of that Section, and by adding a new subparagraph (5) as follows: "(5) coordinate the views of the Executive Branch and discharge the responsibilities with respect to Section 721(a) and (e) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) ("Defense Production Act")."

(E) By adding the following sentence at the end of Section 5: "Information or documentary material filed pursuant to Section 1(b)(5) or Section 7 of this Order shall be treated in accordance with paragraph (b) of Section 721 of the Defense Production Act."

(F) By inserting in Section 1(a) the following additional Committee members: "(7) The Attorney General." and "(8) The Director of the Office of Management and Budget."

(G) The Interim Presidential Directive to the Secretary of the Treasury of October 26, 1988, is hereby revoked, and any notices received or investigations pending as of the date this Order takes effect shall be referred to the Chairman of the Committee for action consistent with this Order.

Sec. 3-301. Reporting Requirement on Semiconductors, Fiber Optics and Superconducting Materials.

(1) The Secretary of Commerce, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Director of the Office of Management and Budget, shall prepare for the President to submit to the Congress with the Fiscal Year 1990 budget a report describing policies and budget proposals regarding:

(A) Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(B) Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(C) Superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research

is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(D) Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and non-durable goods.

(2) The Department of Defense, the Department of Energy, the National Science Foundation, the National Aeronautics and Space Administration, the Department of State, the United States Trade Representative, and other Federal agencies deemed appropriate by the Secretary of Commerce shall provide the information described in section 5141 of the Omnibus Trade Act concerning their Fiscal Year 1989 program and proposed Fiscal Year 1990 program to the Secretary of Commerce in sufficient time to permit preparation of the report.

(3) The Office of Management and Budget shall provide to the Secretary of Commerce, in sufficient time to permit preparation of the report, a summary of the Federal base program and Fiscal Year 1990 budget initiatives in each of the technical areas of the report.

(4) The Office of Science and Technology Policy ("OSTP") shall provide the Secretary of Commerce with appropriate policy guidance in the technical areas of the report, including a summary of the criteria used to select research projects within an agency and among agencies, and the results of any studies conducted by OSTP, or by others if OSTP deems them to be relevant, which analyze the influence of the Federal research programs in the technical areas of the report.

Sec. 3-401. A National Commission on Superconductivity.

(1) *Establishment.* There is established a National Commission on Superconductivity ("Commission"). The Commission shall consider major policy issues regarding United States applications of recent research advances in superconductors including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(2) *Membership.* The membership of the Commission shall be not more than 24 individuals appointed by the President and include representatives of:

(A) The National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Justice, the Department of Commerce (including the National Institute of Standards and Technology), the Department of Transportation, the Department of the Treasury, the Department of Defense, and the Office of Management and Budget;

(B) Organizations whose membership is comprised of physicists, engineers, chemical scientists, or material scientists; and

(C) Industries, universities, and national laboratories engaged in superconductivity research.

(3) *Chairman.* A representative of the private sector shall be designated by the President as Chairman of the Commission.

(4) *Coordination.* The National Critical Materials Council shall be the coordinating body of the Commission and shall provide staff support for the Commission.

(5) *Report.* By February 23, 1989, the Commission shall submit a report to the President and the Congress with recommendations regarding methods of

enhancing the research, development, and implementation of improved superconductor technologies in all major applications.

(6) *Scope of Review.* In preparing the report required by subsection (5), the Commission shall consider addressing, but need not limit its review to:

(A) The state of United States competitiveness in the development of improved superconductors;

(B) Methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(C) Methods to improve and coordinate funding of research and development of improved superconductors;

(D) Methods to improve and coordinate the development of viable commercial and military applications of improved superconductors;

(E) Foreign government activities designed to promote research, development, and commercial application of improved superconductors;

(F) The need to provide increased Federal funding of research and development of improved superconductors;

(G) The impact on the United States national security if the United States must rely on foreign producers of superconductors;

(H) The benefit, if any, of granting private companies partial exemptions from United States antitrust laws to allow them to coordinate research, development, and products containing improved superconductors;

(I) Options for providing income tax incentives for encouraging research, development, and production in the United States of products containing improved superconductors; and

(J) Methods to strengthen domestic patent and trademark laws to ensure that qualified superconductivity discoveries receive the fullest protection from infringement.

(7) *Termination.* The Commission shall disband within a year of the date of this Order. Thereafter the National Critical Materials Council may review and update the report required by subsection (5) and make further recommendations as it deems appropriate.

PART IV—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

Sec. 4-101. *Buy American Act of 1988.*

(1) The functions vested in the President by section 7002 of the Omnibus Trade Act, regarding section 4(d) of Title III of the Buy American Act of 1933, as amended (41 U.S.C. 10a-10d), are delegated to the Secretary of Defense.

(2) The functions vested in the President by section 7003 of the Omnibus Trade Act, regarding the annual report required by subsection (d) of section 305 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2515), are delegated to the United States Trade Representative.

PART V—MISCELLANEOUS

Sec. 5-101. *Executive Oversight.*

Any actions or determinations taken or made by an officer or agency under the Omnibus Trade Act or this Order shall be subject to the Executive oversight and direction of the President, and such actions or determinations shall be undertaken after appropriate inter-agency consultation as established by the President.

Sec. 5-102. *Regulatory Review.* Notwithstanding the provisions of section 1(a)(2) of Executive Order No. 12291 of February 17, 1981, the Director of the Office of Management and Budget shall, with regard to regulations, rules, or agency statements of general applicability and future effect designed to

implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency relative to the administration of the Export Administration Act, determine whether such regulations, rules, or agency statements are exempted from review under that Order, pursuant to the provisions of section 8(b) thereof.

Sec. 5-201. Offsets. The negotiating functions under section 825(c) of the Defense Authorization Act, as may be ordered by the President, are hereby jointly delegated to the Secretary of Defense and the United States Trade Representative. These functions shall be coordinated with the Secretary of State and conducted in consultation with the Secretaries of Commerce, Labor and the Treasury.

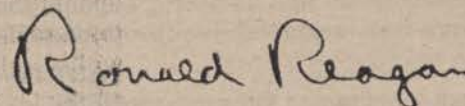
Sec. 5-202. Reporting Functions. The reporting functions of the President under section 825(d) of the Defense Authorization Act are delegated to the Director of the Office of Management and Budget. The Director may further delegate to the heads of Executive departments and agencies responsibility for preparing particular sections of such reports. The heads of Executive departments and agencies shall, to the extent permitted by law, provide the Director with such information as may be necessary for the effective performance of these functions.

Sec. 5-301. International Trade Commission Report. The functions vested in the President by section 332(g) of the Tariff Act, regarding reports by the United States International Trade Commission to the President, are delegated to the United States Trade Representative.

Sec. 5-401. Strengthening International Institutions. To the extent possible, actions undertaken under this Order shall be conducted in a manner that strengthens international institutions that further United States objectives, such as opening foreign markets and preventing the export of strategic goods and technologies to proscribed destinations.

Sec. 5-501. Effective Date. This Order shall take effect at 12:01 a.m. on Wednesday, December 28, 1988.

THE WHITE HOUSE,
December 27, 1988.



[FR Doc. 89-510

Filed 1-6-89; 10:33 am]

Billing code 3195-01-M

Editorial note: For a statement by the Deputy Press Secretary to the President, dated Dec. 28, on Executive Order 12861 and a list of seven members appointed to the National Commission on Superconductivity, dated Dec. 22, see the *Weekly Compilation of Presidential Documents* (vol. 24, pp. 1666 and 1653, respectively).

Presidential Documents

Executive Order 12662 of December 31, 1988

Implementing the United States-Canada Free-Trade Implementation Act

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Public Law 100-449, 102 Stat. 1851) ("FTA Implementation Act"), it is hereby ordered as follows:

Section 1. *Publication of Proposed Rules regarding Technical Standards.*

(a) In accordance with Articles 601(1) and 607 of the United States-Canada Free-Trade Agreement ("Free-Trade Agreement"), each agency subject to the provisions of the Administration Procedure Act (5 U.S.C. section 551 *et seq.*) shall, in applying section 553 of Title 5 of the United States Code with respect to any proposed Federal standards-related measures or product approval procedures, publish or serve notice of such measures or procedures not less than 75 days before the comment due date, except where, in urgent circumstances, delay would frustrate the achievement of a legitimate domestic objective.

(b) For purposes of this section:

(1) "legitimate domestic objective" means an objective whose purpose is to protect health, safety, essential security, the environment, or consumer interests;

(2) "product approval" means a Federal Government declaration that a set of published criteria has been fulfilled and therefore that goods are permitted to be used in a specific manner or for a specific purpose;

(3) "standards" and "certification systems" shall be defined in accordance with the definitions for those terms set out in section 451 of the Trade Act of 1979, 19 U.S.C. section 2571; and

(4) "standards-related measures" include technical specifications, technical regulations, standards and rules for certification systems that apply to goods, and processes and production methods.

(c) This section shall not apply with respect to any proposed rules related to agricultural, food, beverage, and certain related goods as defined in Chapter Seven (Agriculture) of the Free-Trade Agreement.

Sec. 2. *Establishment of United States Secretariat.*

Pursuant to subsection 405(e) of the FTA Implementation Act, a "United States Secretariat" shall be established within the International Trade Administration of the Department of Commerce. The Secretariat shall facilitate:

- (1) the operation of Chapters 18 and 19 of the Free-Trade Agreement, and
- (2) the work of the binational panels and extraordinary challenge committees convened under those Chapters.

Sec. 3. *Acceptance by the President of Panel and Committee Decisions.*

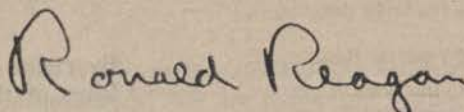
In accordance with subsection 401(c) of the FTA Implementation Act, in the event that the provisions of subparagraph 516A(g)(7)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. section 1516a(g)(7)(B), take effect, I accept, as a whole, all decisions of binational panels and extraordinary challenge committees.

Sec. 4. *Judicial Review.*

This Order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 5. *Effective Date.*

This Order shall take effect upon the entry into force of the Free-Trade Agreement.



THE WHITE HOUSE,

December 31, 1988.

[FR Doc. 89-517

Filed 1-6-89; 10:34 am]

Billing code 3195-01-M

Editorial note: For the text of a memorandum to the Secretary of State and the U.S. Trade Representative, dated Dec. 31, on the implementation of the agreement, see the *Weekly Compilation of Presidential Documents* (vol. 24, p. 1668).